

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.68 OF 1999

The Commissioner of Income Tax  
Kolhapur .. Applicant.

V/s.

Shri Vithal SSK Ltd. .. Respondent.

Mr.Ashok Kotangale with Mr.Parag Vyas  
for the applicant.

Mr.Pramod Vaidya i/b. S.N. Inamdar  
for the respondent.

CORAM : V.C. DAGA &  
J.P. DEVADHAR, JJ.

DATED : 24TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the parties.  
The Tribunal has referred following questions for the  
opinion of this Court, reading as under :

Whether on the facts and in the circumstances  
of the case the ITAT relying on the decision  
of its Special Bench in the case of Shri  
Chhatrapati SSK Ltd. (198 ITR 78 - AT) was  
right in deleting the following additions by  
holding that the various funds/deposits  
collected by the assessee society out of the  
sugarcane purchase price payable to the cane  
growers are not trading receipts of the  
assessee ?

|                    | Assessment years |         |         |
|--------------------|------------------|---------|---------|
|                    | 1981-82          | 1982-83 | 1983-84 |
| 1. NRD             | 139373           | 923425  | 3300753 |
| 2. Hutment fund    | 19731            | 62633   | 133318  |
| 3. Refundable dep. | -                | 1039288 | -       |
| 4. C.M.'s fund     | -                | 62633   | 133318  |

|                          |   |        |        |
|--------------------------|---|--------|--------|
| 5. Small savings         | - | 125267 | 533192 |
| 6. Area development fund | - | -      | 533192 |

2. In so far as all other items except area development fund for all the assessment years is concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as area Development Fund for all the assessment years is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)